

GENERAL BANKRUPTCY INFORMATION

Bankruptcy Law is a federal law. Its intent is to give honest debtors a “fresh start”. Below is a brief description of the most common bankruptcy petitions. The Clerk’s Office cannot give legal advice. Please consult an attorney if you have questions or need further information as to how the bankruptcy law applies to your specific situation.

- 1) **Chapter 7** - The purpose of a Chapter 7 liquidation is to allow a debtor with too much debt to obtain a fresh start. A trustee is appointed in a Chapter 7 case to liquidate non-exempt assets and equitably distribute these assets to creditors. An original and three copies of the petition, lists, schedules and statements are required.
- 2) **Chapter 11** - This chapter is used mostly by businesses, but is also available to individuals. The purpose of a Chapter 11 is to restructure a business’s finances so that it may continue to operate while working out a plan for reducing its debt and repaying its creditors. Creditors are given an opportunity to accept or reject the plan and it must be approved by the Court. A trustee is not appointed unless ordered by the Judge. An original and six copies of the petition, lists, schedules and statements are required.
- 3) **Chapter 12** - The purpose of a Chapter 12 is to assist family farmers. A trustee is appointed. Plan payments are made through a Chapter 12 trustee, who also monitors the debtor’s operations during the pendency of the plan. The plan must be approved by the Court. An original and six copies of the petition, lists, schedules and statements are required.
- 4) **Chapter 13** - The purpose of a Chapter 13 is to enable individuals with regular incomes to develop and perform under a plan for the repayment of debts. A trustee is appointed. Plan payments are made through the Chapter 13 trustee. The plan must be approved by the Court. An original and three copies of the petition, lists, schedules and statements are required.

Discharge

For an individual debtor the issuance of the order granting a discharge is the most important event in a bankruptcy case. Pursuant to the law, certain types of debts cannot be discharged. The most common types of non-dischargeable debts are:

- | | |
|----------------------|---|
| * Most taxes | * Court fines and criminal restitution |
| * Child support | * Personal injury caused by driving while intoxicated or under the influence of drugs |
| * Alimony | * Debts not listed on the schedules filed with the Court |
| * Most student loans | |

GENERAL BANKRUPTCY INFORMATION

Discharge (cont.)

The time of the discharge varies, depending on the chapter under which the case is filed

- In a **chapter 7** case a discharge is generally issued promptly on expiration of the time fixed for filing a complaint objecting to the discharge. Typically, this occurs about four months after the date the petition is filed.
- In a **chapter 11** case, the discharge occurs upon confirmation of a chapter 11 plan.
- In a **chapter 12 and 13** case, the discharge is granted as soon as practical after the debtor completes all payments under the plan. A plan may provide for payments to be made over three to five years.

Be advised that your bankruptcy may be reported on your credit records for as long as ten years. It can affect your ability to receive credit in the future.

Reaffirmation Agreement

A reaffirmation agreement is a debtor's agreement with a creditor to reaffirm the debtor's obligation to repay a debt that would otherwise be dischargeable. A common example of the type of debt involved in a reaffirmation agreement is the note on an automobile. Reaffirmation agreements should not impose an undue burden on you or your dependents and must be in your best interest. A reaffirmation agreement is not required by law and may be rescinded at any time prior to discharge or within 60 days after filing of the agreement with the court. A hearing on a reaffirmation agreement is required if the debtor is not represented by an attorney. A request for a §524(d) hearing is attached.

Motions

Motions are filed in regular or default format. Please contact the Clerk's Office for informational "handouts" pertaining to motions prior to filing a motion in your case.



U.S. Department of Justice

Office of the United States Trustee

Western District of New York

New Federal Office Building
100 State Street, Room 6090
Rochester, New York 14614

(585) 263-5812
FAX (585) 263-5829

IMPORTANT §341 MEETING POLICY CHANGE

To: Bankruptcy Practitioners and Pro Se Debtors
From: Trudy A. Nowak, Assistant United States Trustee
Re: Debtor Identification Program
Date: February 1, 2002

ALL INDIVIDUAL DEBTORS ARE REQUIRED TO PROVIDE PICTURE IDENTIFICATION AND PROOF OF SOCIAL SECURITY NUMBER TO THE TRUSTEE AT §341 MEETINGS HELD ON OR AFTER MARCH 1, 2002

Acceptable types of picture identification:

Valid state driver license, passport, government issued photo ID, legal resident alien card, or other identification or official documentation which clearly establishes identity. ORIGINAL REQUIRED.

Acceptable proof of social security number ("SSN"):

Social security card, a W-2 form for the most recent tax year, recent paystub, medical insurance card, social security administrative report, or other official document which indicates name and SSN. ORIGINAL REQUIRED.

Consequences for failure to have required documents:

If a debtor does not have acceptable documents, the §341 meeting will be adjourned to the trustee's next calendar. Failure to produce the documents then will result in a Motion to Dismiss filed by the United States Trustee.

Consequences for error in SSN:

If there is an error, you will be required to (1) file an Amended Petition pursuant to Fed. R. Bankr. P. 1009 within ten days from the §341 meeting to correct any incorrect SSN; (2) notify the 3 major credit reporting agencies of the error and file a copy of the notice with the trustee, the United States Trustee and the Bankruptcy Court. Failure to do both corrective actions will result in a Motion to Dismiss filed by the United States Trustee.

Goal is to protect innocent third parties from intentional and inadvertent use of SSN:

Bankruptcy filings are primarily reported to credit agencies by SSN. The cost and hardship to correct an adverse credit history can be substantial. With your assistance, we should be able to limit the impact on innocent parties of a case which has been filed with an incorrect SSN.

We appreciate your cooperation in implementing this new policy. If you have any questions, please contact Trudy A. Nowak, Assistant United States Trustee, at (585) 263-5706.

UNITED STATES BANKRUPTCY COURT, WDNY

FEE SCHEDULE *EFFECTIVE 11/01/03*

Chapter 7 & Involuntary Chapter 7 (\$155 filing fee + \$39 admin. fee + \$15 trustee fee)	\$209.00
Chapter 13 (\$155 filing fee + \$39 admin. Fee)	\$194.00
Chapter 11 & Involuntary Chapter 11 (\$800 filing fee + \$39 admin. fee)	\$839.00
Conversion to Chapter 11	\$645.00
Chapter 12 (\$200 filing fee + \$39 admin fee)	\$239.00
Ancillary Petition to a Foreign Proceeding filed under §304 (\$800 filing fee, \$39.00 admn. fee)	\$839.00
Adversary Proceeding <i>Fee Deferred if: trustee or DIP is plaintiff; No fee due if debtor is plaintiff or child support creditor is plaintiff and Form B281 is filed.</i>	\$150.00
Amendment to debtor's schedules of creditors, lists of creditors, matrix, or mailing lists.. Exceptions: no fee is charged to change the address of a listed creditor and no fee is charged to add the name and address of a listed creditor's attorney. <i>Fee is due for each separate document, not per item amended. Fee is due regardless of notice.</i>	\$26.00
Notice of Appeal - \$5 (§1930(c)) Docketing Notice of Appeal/Cross Appeal - \$250 <i>(If Application for Leave to Appeal is filed with Notice of Appeal, only the \$5 fee is due. The \$250 docketing fee will be due upon the granting of the motion)</i>	\$250.00 + \$5.00 = \$255.00
Certification	\$9.00
Exemplification of any document or paper	\$18.00
Certificate of Good Standing	-0-
Check returned for lack of funds	\$45.00
Copies (per page)	\$.50
Electronic Copies - Copies printed from public access terminals	\$.10/pg.
Electronic Access to Court Records (PACER): per minute charge	\$.60
Internet Access (PACER) to data obtained	\$.07/pg \$2.10 max
Indexing or filing any paper not in a case or proceeding for which a filing fee has been paid, including registering a judgment from another district	\$39.00
Motions : (no fee due if movant is child support creditor or representative and Form B281 is filed)	
To compel abandonment per Rule 6007(b) (a single \$150.00 fee is charged if combined motion to modify stay is filed)	\$150.00

To convert to Chapter 7 at request of debtor or moving party <i>(no fee collected from UST if movant; if Trustee is movant, fee is payable from estate if there is one.)</i>	\$15.00
To modify or lift the stay under §362 <i>(separate fee is collected for each financing document)</i>	\$150.00
To withdraw reference under §157(d)	\$150.00
Registry funds: Charge for handling Registry Funds deposited with the Court, to be assessed from interest earnings	10% of interest earned
Reopen Fee: <i>Current <u>filing fee</u> for the chapter is due upon the filing of the motion to reopen. No administrative or trustee fee is collected. No fee due if reopening relative to discharge or due to administrative error. Fee may be deferred for trustees pending discovery of additional asset and fee shall be then waived if no additional assets are discovered .</i>	\$155.00 - Ch. 7 & 13 \$800.00 - Ch. 11
Retrieval of record from Federal Record Center	\$45.00
Search Fee	\$26.00
Split Case Fee: <i>Due when debtor is movant. Additional fee for additional relief is collected, i.e. conversion.</i>	\$155.00 - Ch.. 7 & Ch. 13 \$800.00 - Ch. 11 \$200.00 - Ch. 12
Tape Duplication: <i>Reproduction of magnetic tape recordings, either cassette or reel-to-reel.</i>	\$26.00



LEONIDAS RALPH MECHAM
Director

**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**

CLARENCE A. LEE, JR.
Associate Director

WASHINGTON, D.C. 20544

October 20, 2003

**MEMORANDUM TO: CHIEF JUDGES, UNITED STATES COURTS
CLERKS, UNITED STATES COURTS**

SUBJECT: Electronic Public Access (EPA) Fee Schedule Change (INFORMATION)

The Judicial Conference, at its September 2003 session, amended the language of Section I of the Electronic Public Access Fee Schedule for the appellate, district, and bankruptcy courts, the United States Court of Federal Claims, and the Judicial Panel on Multidistrict Litigation (adopted by the Judicial Conference pursuant to sections 1913, 1914, 1926, 1930, and 1932 of title 28, United States Code). The previous schedule placed a cap on the seven cents per page charge for Internet access to data obtained electronically from the public records of individual cases in the courts, with a maximum \$2.10, the equivalent of 30 pages, for electronic access to any single document. The amendment extends this cap to all case documents, including docket sheets and case-specific reports, with the exception of transcripts of federal court proceedings. The actual implementation of the document cap extension will not take place until the necessary billing software is completed.

The amendment also specifies the individuals and groups whom courts may exempt, upon a showing of cause, including indigents, bankruptcy case trustees, individual researchers associated with educational institutions, courts, section 501(c)(3) not-for-profit organizations and pro bono ADR neutrals from payment of the fees. Courts must find that parties from these specified classes of persons or entities seeking exemption have demonstrated that an exemption is necessary to avoid unreasonable burdens and to promote access to information. Any user granted an exemption must agree not to sell for profit the data obtained as a result. Exemptions may be granted for a definite period of time and may be revoked at the discretion of the court granting the exemption.

The amendment also modifies the policy notes to the access fee schedule to emphasize that courts should not exempt local, state or federal government agencies, members of the media,

attorneys or others who are not members of the groups specified above. The amendment prohibits courts from using the exemption language to exempt all users and dictates that an exemption applies only to access for the specific case or purpose for which it was given.

Additionally, the amendment clarifies that the public access fee applies to electronic court data viewed remotely, and that electronic data is available for viewing free of charge at public terminals in the courthouse. A copy of the new EPA Fee Schedule is attached.

If you have any questions on these matters, please contact Mary Stickney, Chief of the EPA Program, in the Office of Court Administration and Defender Services at (202) 502-1500 or William R. Hinerman, EPA Program Attorney-Advisor, at (202) 502-1500 or via email at William.Hinerman/DCA/AO/USCOURTS.

A handwritten signature in black ink, appearing to read "Leonidas Ralph Mecham". The signature is fluid and cursive, with the first name "Leonidas" being more prominent and the last name "Mecham" following in a similar style.

Leonidas Ralph Mecham

Attachment

cc: Circuit Executives
District Court Executives
Clerks, Bankruptcy Appellate Panels

ELECTRONIC PUBLIC ACCESS FEE SCHEDULE (eff. 9/23/03)

As directed by Congress, the Judicial Conference has determined that the following fees are necessary to reimburse expenses incurred by the judiciary in providing electronic public access to court records. These fees shall apply to the United States unless otherwise stated. No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A, and bankruptcy administrator programs.

- I. For electronic access to court data via dial up service: sixty cents per minute. For electronic access to court data via a federal judiciary Internet site: seven cents per page, with the total for any document, docket sheet, or case-specific report not to exceed the fee for thirty pages— provided however that transcripts of federal court proceedings shall not be subject to the thirty-page fee limit. Attorneys of record and parties in a case (including *pro se* litigants) receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. No fee is owed under this provision until an account holder accrues charges of more than \$10 in a calendar year. Consistent with Judicial Conference policy, courts may, upon a showing of cause, exempt indigents, bankruptcy case trustees, individual researchers associated with educational institutions, courts, section 501(c)(3) not-for-profit organizations and pro bono ADR neutrals from payment of these fees. Courts must find that parties from the classes of persons or entities listed above seeking exemption have demonstrated that an exemption is necessary in order to avoid unreasonable burdens and to promote public access to information. Any user granted an exemption agrees not to sell for profit the data obtained as a result. Exemptions may be granted for a definite period of time and may be revoked at the discretion of the court granting the exemption.
- II. For printing copies of any record or document accessed electronically at a public terminal in the courthouse: ten cents per page. This fee shall apply to services rendered on behalf of the United States if the record requested is remotely available through electronic access.
- III. For every search of court records conducted by the PACER Service Center, \$20.

JUDICIAL CONFERENCE POLICY NOTES

Courts should not exempt local, state or federal government agencies, members of the media, attorneys or others not members of one of the groups listed above. Exemptions should be granted as the exception, not the rule. A court may not use this exemption language to exempt all users. An exemption applies only to access related to the case or purpose for which it was given.

ELECTRONIC PUBLIC ACCESS FEE SCHEDULE (eff. 9/23/03)
(Contd.)

The electronic public access fee applies to electronic court data viewed remotely from the public records of individual cases in the court, including filed documents and the docket sheet. Electronic court data may be viewed free at public terminals at the courthouse and courts may provide other local court information at no cost. Examples of information that can be provided at no cost include: local rules, court forms, news items, court calendars, opinions, and other information – such as court hours, court location, telephone listings – determined locally to benefit the public and the court.

UNITED STATES BANKRUPTCY COURT

NOTICE TO INDIVIDUAL CONSUMER DEBTOR

The purpose of this notice is to acquaint you with the four chapters of the federal Bankruptcy Code under which you may file a bankruptcy petition. The bankruptcy law is complicated and not easily described. Therefore, you should seek the advice of an attorney to learn of your rights and responsibilities under the law should you decide to file a petition with the Court. Neither the Judge nor the Court's employees may provide you with legal advice.

Chapter 7: Liquidation (\$155.00 filing fee + \$30 administrative fee + \$15 Trustee fee)

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts.
2. Under chapter 7 a trustee takes possession of all your property. You may claim certain of your property as exempt under governing law. The trustee then liquidates the property and uses the proceeds to pay your creditors according to priorities of the Bankruptcy Code.
3. The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, your discharge may be denied by the Court, and the purpose for which you filed the bankruptcy petition will be defeated.
4. Even if you receive a discharge, there are some debts that are not discharged under the law. Therefore, you may still be responsible for such debts as certain taxes and student loans, alimony and support payments, criminal restitution, and debts for death or personal injury caused by driving while intoxicated from alcohol or drugs.
5. Under certain circumstances you may keep property that you have purchased subject to a valid security interest. Your attorney can explain the options that are available to you.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$155 filing fee + \$30 administrative fee)

1. Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but would like to pay them in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.
2. Under chapter 13 you must file a plan with the Court to repay your creditors all or part of the money that you owe them, using your future earnings. Usually, the period allowed by the Court to repay your debts is three years, but not more than five years. Your plan must be approved by the Court before it can take effect.
3. Under Chapter 13, unlike chapter 7, you may keep all your property, both exempt and non-exempt, as long as you continue to make payments under the plan.
4. After completion of payments under your plan, your debts are discharged except alimony and support payments, student loans, certain other debts including criminal restitution and debts for death or personal injury caused by driving while intoxicated from alcohol or drugs, and long term secured obligations.

Chapter 11: Reorganization (\$800 filing fee + \$30 administrative fee)

Chapter 11 is designed primarily for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer (\$200 filing fee + \$30 administrative fee)

Chapter 12 is designed to permit family farmers to repay their debts over a period of time from future earnings and is in many ways similar to a chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm.

I, THE DEBTOR, AFFIRM THAT I HAVE READ THIS NOTICE.

Date

Signature of Debtor

Case Number

FILING REQUIREMENTS

- Caption does not contain more than one entity. Information pertaining to caption is included in this packet.
- The debtor(s) should sign the petition page under the heading marked **Signature of Individual/Joint Debtor(s)**.
- Absent legal representation, official form B201-**Notice to Individual Consumer Debtor** (attached) must be signed and dated. In addition, the debtor(s) **telephone number** should be included on the petition page.
- Matrix must be in the format specified by the Clerk. A Preparation of Matrix handout is attached. Only an original matrix is required. Please do not attach the matrix to the petition and schedules.
- The required number of copies per chapter is listed below. The original petition should be under cover.
 - Chapter 7 & 13 (original plus 3 copies)
 - Chapter 11 & 12 (original plus 6 copies)
- Complete all boxes on the petition page. Check addresses and social security numbers for correctness.
- A debtor(s) check will not be accepted for payment of the filing fee. Please submit payment in the form of a money order, bank draft or cash.
- Make certain that all Schedules (A-J), Summary of Schedules, Debtor's Declaration Concerning Schedules, Statement of Financial Affairs, Debtor's Declaration Concerning Statement of Financial Affairs are included with the filing of the petition or are submitted within fifteen (15) days of the filing of the petition. Failure to file these documents within the fifteen (15) days time frame will result in issuing an Order to Show Cause to dismiss your case for failure to these required documents.

INFORMATION REGARDING D/B/A'S & A/K/A'S AND OTHER CAPTION PROBLEMS

The Federal Rules of Bankruptcy procedure and Official Forms require a debtor to include the caption of "all names used by the debtor within the last six years." The caption should include trade names and d/b/a's, as well as maiden names, married names and aliases.

The Rules are not self-enforcing, however. In other words, the Clerk is not empowered to refuse to accept a petition which, in light of the debtor's statements and schedules, contains an insufficient caption. The Court can ultimately refuse to accept an invalid or insufficient petition ab initio - a petition that fails to conform to certain basic provisions or rules governing filings under Title 11 U.S.C.

An invalid or insufficient petition is one that:

- 1) Purports to place more than one entity under the protection of the Court on a single petition, unless they are husband and wife;
- 2) Is not signed by the debtor and/or the attorney for debtor;
- 3) The filing fee has not been paid in full and an installment application which did not recite in detail the extraordinary reasons for the debtor's inability to pay the filing fee and, in addition, the compelling circumstances which required a bankruptcy petition to be filed at this time is denied;
- 4) Is not accompanied by a complete list or schedule of creditors;
- 5) Fails to allege a basis for venue in the Western District of New York; and,
- 6) Inclusive of all chapters, concerning a corporation not represented by an attorney of law, whereas this Court, pursuant to the laws of the State of New York does not permit a corporation to appear before it other than through licensed counsel.

This handout seeks to clarify Item 1 above. The use of d/b/a's and a/k/a's and the relationship of an individual to an existing or defunct business entity or trade name can be confusing. More important than the confusion is the potential for serious error, injuring either the debtor or his or her creditors.

As indicated above, the Clerk's Office will file any petition that is a valid petition, even if it is deficient. Thus, a petition captioned "John J. Jones" is a valid petition and will be filed. The debtor could be in for trouble if he incurred debts under the name "Jonesy's Bike Shop," because a creditor who received John J. Jones' notice of filing might not link it up with an account opened in the name of Jonesy's Bike Shop. Such a creditor might claim that it never received notice of the filing and that its debt is not discharged. The state of the law on this issue is not altogether clear,

but it is certainly a litigable issue. It probably is not materially affected by the possibility that the business name was reflected in the statement or schedules, since creditors do not receive those materials unless they ask for them - all that creditors routinely see is the case caption.

Therefore, the safe course of action for a debtor is to caption the petition "John J. Jones, d/b/a Jonesy's Bike Shop." Even though the Clerk's Office will never refuse to accept a petition, if a petition should be captioned as "John J. Jones, Jonesy's Bike Shop", an Order to Show Cause Why Petition Should Not Be Stricken As Void Ab Initio will be issued in violation of #1 above. That is because it appears to put both John and his bike shop in bankruptcy, and if the bike shop is in fact a separate legal entity, the petition is invalid - the only joint filings permissible are husband and wife. If the debtor's attorney doesn't know yet whether the bike shop is a separate legal entity, he or she should find out as soon as possible. If necessary, in the meantime, **"John J. Jones, d/b/a (or a/k/a) 'Jonesy's Bike Shop'"** might suffice. The business can be filed separately later on if he finds it is in fact a corporation or partnership, and he can consider amending John's caption then also to more properly reflect, for example, **"John J. Jones, individually and as an Officer, Director and Shareholder of Jonesy's Bike Shop, Inc., a New York Corporation,"** or **"John J. Jones, individually and as a general partner in Jonesy's Bike Shop."**

The above references to "amending the caption" is used advisedly. Nothing in the Rules of Bankruptcy Procedure requires the Court to notify all creditors of an amendment. Nor can the Court administratively afford routinely to do so. Thus, the knowledge that a caption can be amended should not be relied upon as substitute for doing a good workmanlike job before the petition is filed - once the notices have gone out, subsequent amendments might be valueless to the debtor.

Of course, the considerations reflected above are fully applicable to former business affiliations of the debtor. In this regard it is good practice to go back beyond six years if any of the debt which the debtor seeks to discharge is older than that and is incurred by his or her old business. Thus, here are some acceptable variations on the theme:

1. An old proprietorship, now defunct - "John J. Jones, formerly d/b/a Jonesey's Bike Shop";
2. An old partnership, now dissolved - "John J. Jones, Individually and as a former general partner in Jonesey's Bike Shop, a general partnership;"
3. A former officer of a still existing corporation, and partner in a still existing firm - "John J. Jones, individually (a former officer and principal of Jonesey's Bike Shop, Inc., a New York Corporation, and a general partner in Jonesey's Moped Shop, a general partnership);
4. A principal of a corporation that never really existed - "John J. Jones, sole owner of Jonesey's Bike Shop, Inc.";

.....and so forth.

Of course, such d/b/a's and other clarifying language become critical only when John is individually liable on the debts incurred or maintained in the business name, and is seeking to discharge or otherwise provide for those personal liabilities.

A final word of caution: The general public and the media unfortunately can misinterpret a case of caption. If, then, the debtor has a business that is a thriving business, but he himself is in difficulty, there is no assurance that unsophisticated observers are not going to confuse the debtor with the independent going concern. This can be tragic. It can be even more tragic if, for example, someone else now owns that thriving business. Thus, be alert to the potential for injuring a going concern by having reflected it in the caption in a manner that's less than clear. In a similar vein, many businesses have similar names. Injury can be inflicted on totally unrelated business entities by a lack of clarity, particularly in the caption. Often, this type of potential can be minimized by adding a descriptive term in the caption relating to the nature of the business. (For example, if the debtors owns Ace Enterprises, Inc., which operates a laundry, saying: **"John J. Jones, individually and as Officer and Stockholder of Ace Enterprises, Inc., a New York Corporation engaged in the laundry business"**). This should prevent confusion with the potential multitude of Ace, Inc.'s, Ace & Co., Inc., Ace Bros. Enterprises, Inc., and so forth.

Below are examples of cases of caption:

Individual	John J. Jones
Individual operating a proprietorship	John J. Jones d/b/a Jones Construction Co.
Individual who within the last six years operated a business (but not presently)	John J. Jones, formerly d/b/a Jones Construction Company
Individual presently a partner in a partnership	John J. Jones, individually and as a partner of J.B.C. Co, a partnership
Individual formerly (within past six years) a partner in a partnership	John J. Jones, individually and as a former partner of J.B.C. Co., a partnership
A partnership	J.B.C. Co., a partnership comprised of John J. Jones, Richard Booth and Albert Coe, partners
A corporation	Allsworth, Inc.
An individual presently or formerly an officer of a corporation <u>who has listed Corporate debts</u>	Richard Roe ("an officer" or "formerly an officer" of Allsworth, Inc.)

Note: "Inc." or "Corp." indicates a corporation not a partnership

BANKRUPTCY EXEMPTIONS

NOTE:

- New York has opted out of Federal Bankruptcy "exemption" scheme set out in §522(d) of the Code.
- "Exemptions" available in New York are provided for under Civil Practice Law and Rules ("CPLR") §5205 & §5206, Debtor and Creditor Law ("DCL") §282, §283, and Insurance Law §3212.
- Purpose: Bankruptcy system intended to give honest debtors a "fresh start," recognizing that some basic statutory levels of asset value should be preserved for debtors ahead of unsecured creditors -- avoids leaving debtors destitute.

Exemptions - Generally

- 1) "Homestead Exemption" (CPLR 5206 and DCL §282)
\$10,000 per-debtor (property must be occupied as principal residence)
- 2) "Automobile Exemption" (DCL §282)
\$2,400 per-debtor (one vehicle each)
- 3) "Personal Property Exemption" (CPLR 5205 and DCL §282)
\$5,000 per-debtor
- 4) "Cash Exemption" (DCL §283)
\$2,500 per-debtor, but only for portion of unused \$5,000 personal property exemption
(e.g.: if \$5,000 personal property exemption is claimed, there is no cash exemption available)
- 5) "Personal Injury Claim Exemption" (DCL §282)
up to \$7,500
- 6) Insurance and Annuity Exemption (Ins. Law §3212)
restricted to avoid pre-bankruptcy purchases of annuity to avoid creditors
- 7) Retirement Account Exemptions
if plans are qualified, are generally exempt

NOTE: Efforts presently underway in New York to greatly increase exemption amounts.

**TO: BANKRUPTCY ATTORNEYS AND ALL PERSONS PREPARING
BANKRUPTCY PETITIONS**

RE: PREPARATION OF MATRIX

As a starting point, we would like to thank everyone for their cooperation in regard to the new matrix format. As you may know we are solely dependent upon properly prepared matrices to ensure the adequacy of required mailings. These mailings are also certified by us as being true and correct. Unfortunately, we are still having many problems with these matrices and are again asking for your cooperation to correct these problems which are identified as follows:

1. When using a typewriter or personal computer, it is extremely important that the correct print is used to type the matrix. You should not use the following types of print: **Dot Matrix, Boldface, Elite, or Proportional Spacing**. The optical scanner is extremely sensitive and we have found that the **Courier 10 font** is the one most easily read by the scanner. (See Sample #1 for a suggested format.)
2. **Pitch** - When using a 10 pitch font, the typewriter must be set at 10 pitch.
3. **Paper** - Matrix must be submitted on good quality paper - do not use onionskin, colored paper or a photocopy.
4. **Single Column** - The creditors should be typed on a single page in a single column down the **center** of the page. Leave 1 inch at the top and 1 inch at the bottom.
5. Only creditors should be listed on the matrix - do not include the debtor, debtor's attorney, case number or page number on the front of the matrix. Please type the
name of the debtor and page number on the back of each matrix.
6. There should be **2** lines between each address.
7. Do not use UPPER CASE to type your addresses. Use Upper Case only to commence individual words.
8. Do not use the "ℓ" in place of "1".
9. Do not include extraneous information (amount of debt, account numbers, etc.) on the matrix.
10. Do not repeat creditors that have already been listed on the matrix.
11. The maximum for each address is **5** lines. The scanner will not read any address longer than five lines. The Zip Code should be on the last line with the City & State and a hyphen should be used to separate the two groups of digits.

PREPARATION OF MATRIX

Page 2

12. All creditors should be included on the matrix - not only unsecured creditors but also priority and unsecured creditors.
13. Do not include the addresses of IRS & NYS Tax Department on the matrix unless they are listed as a creditor.
14. Several creditors have requested that when notices are sent to them that we only send them to the addresses which they have provided to the Clerk's Office. Therefore, we are requesting that when any of these creditors are listed on the schedules that the address inserted on the matrix reflect the address the creditor has provided to the Clerk's Office. (See the attached matrix for the list of addresses.)
15. Do not staple the matrix to the petition.

Please review this to ensure that the matrices which your office is submitting conforms to these guidelines. Also, please be advised that in the future the Clerk's Office at its discretion may return a matrix to you for compliance if your matrix is deficient, and substantially useless.

Thank you in advance for your continued cooperation in this regard.

PAUL R. WARREN
Clerk, U.S. Bankruptcy Court
Rochester, New York 14614

AT&T Credit Corp.
Woodbridge Towers
555 Route 1 South
Iselin, NJ 08830

Benjamin Press, Inc.
530 Oak Street
Syracuse, NY 13203

LM Berry and Company
P.O. Box 6000
3170 Kettering Blvd.
Dayton, OH 45401

Bestway Disposal Corp.
1233 Lehigh Station Rd.
Henrietta, NY 14467

Better Business Bureau
1122 Sibley Tower Bldg.
Rochester, NY 14604

Bill and Earls Garage
235 Winton Road North
Rochester, NY 14610

Blue Cross Blue Shield
Gateway Center
150 East Main Street
Rochester, NY 14647

Casco Security Systems
39 Saginaw Drive
Rochester, NY 14623

----- SAMPLE 1 -----

JURISDICTION AND VENUE INFORMATION

The county of residence determines the location of bankruptcy hearings. For a case to be commenced in the Western District of New York, a debtor must have domicile, have residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.

Debtors who reside in **Monroe, Wayne, Ontario, Seneca, Livingston and Yates** will attend bankruptcy hearings at The United States Courthouse, 100 State Street, Room 1550, Rochester, New York 14614.

Debtors who reside in **Steuben, Schuyler and Chemung** will attend bankruptcy hearings at The Schuyler County Courthouse, Franklin Street, Watkins Glen, New York 14891.

AMENDMENTS

Amendments may be made to a voluntary petition, initial list of creditors , schedules or statements at any time before the case is closed.

Requirements

- An Amendment Cover Sheet (attached)
- Check all appropriate boxes on the amendment cover sheet
- A \$20.00 amendment fee is required for:
 - Adding/deleting a creditor
 - Any change to the amount or classification of debt to the list or schedules of creditors
- When adding creditors, attach a matrix of only those creditors that are being added. Note: Insert the debtor's name & case number on the back of the matrix
- An original plus 3 copies in chapter 7 & 13 cases
- An original plus 6 copies in chapter 11 & 12 cases
- Signature of attorney and debtor(s)
- Consecutively number all attached amendment pages
- Insert the total number of amendment pages on the appropriate lines on the Amendment Cover Sheet
- Serve a copy of the amendment and a copy of the §341 meeting notice, if applicable, on the case trustee and all affected parties.

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

AMENDMENT/SCHEDULE COVER SHEET

Case Name: _____

Case No. _____
Chapter _____

A. AMENDMENT/SCHEDULE INFORMATION: (Select either #1, #2 or #3)

- ☐ #1--Amendment to previously filed document (Go to Sec. B)
☐ #2--Schedule/Statement not previously filed (Go to Sec. B)
☐ #3--Schedule of Post-Petition Debts (result of conversion--no fee due) (Go to Sec. D)

B. CHECK (✓) THE BELOW SECTION(S) OF THE PETITION AFFECTED BY THIS AMENDMENT/SCHEDULE

- ☐ **Case Caption:** (Please specify)
☐ Name ☐ Social Security/Tax ID # ☐ aka/dba/fkba/fka information
☐ **Petition Page:** (Please specify)
☐ County ☐ Resident/Mailing address
☐ **Signature**
☐ Debtor(s) ☐ Attorney ☐ Corporation/Partnership ☐ Exhibit B
☐ **Statistical/Administrative Information**
☐ **Matrix**
☐ **Summary of Schedules**
☐ **Schedules:** (Please check schedules attached to this Cover Sheet)
☐ Schedule A ☐ Schedule B ☐ Schedule C
☐ Schedule D (Go to Sec. C) ☐ Schedule E (Go to Sec. C) ☐ Schedule F (Go to Sec. C)
☐ Schedule G ☐ Schedule H ☐ Schedule I ☐ Schedule J
☐ **Statement of Financial Affairs**
☐ **Statement Pursuant to Rule 2016(b)**
☐ **Exhibit A**
☐ **Chapter 13 Plan (Pre-confirmation):** ☐ Decrease Payments ☐ Increase Payments ☐ Increases length of plan
☐ **Other:** (Please specify) _____

IF YOU ARE MAKING A CHANGE TO SCHEDULE(S) D, E, F, , THE LIST
OF CREDITORS, MATRIX, OR MAILING LIST YOU MUST NOW GO TO SECTION C
OF THIS FORM. OTHERWISE, PROCEED TO SECTION D.

C. CREDITOR/SCHEDULE INFORMATION: (Select either #1, #2, or #3)

- ☐ #1--Creditors are being added by this amendment/schedule, AND
☐ The \$20.00 amendment fee is attached for adding parties
☐ A matrix in the format prescribed by the Clerk with the complete names and addresses of the parties added is attached. **Note: Do not repeat creditor information from a previously filed matrix.**
☐ #2--Creditors are being deleted* (Rochester only) by this amendment, AND
☐ The \$20.00 amendment fee is attached for deleting parties.
☐ #3--Schedule(s) of creditors (Schedules D, E, F), list of creditors, matrix or mailing list is being amended for purposes other than adding or deleting creditors.
☐ The \$20.00 fee is attached for the amendment.

D. CERTIFICATION OF SERVICE AND DEBTOR DECLARATION (Please complete both parts)

→ CERTIFICATION OF SERVICE

I certify that I have served all parties who are affected by this amendment/schedule with a copy thereof, and a copy of the §341 meeting notice, if applicable and have served any Trustee.

Dated: _____

Attorney for Debtor
(Debtor to verify if pro se)

→ DECLARATION

I declare under penalty of perjury that I have read this cover sheet and the attached schedules, lists, statements, etc., consisting of _____ sheets, numbered 1 through _____, and that they are true and correct to the best of my knowledge, information and belief.

Dated: _____ Signature: _____ (debtor)

Dated: _____ Signature: _____ (joint debtor, if any)

***Note:** Deleting creditors on Buffalo cases must be done by notice of motion. Creditors can be deleted on Rochester cases by submitting this Cover Sheet and a list of the creditors being deleted by the amendment.

Local Rule 1007-1 requires an original plus (3) copies for cases filed under Chapter 7 or 13; an original and (6) copies for cases filed under Chapter 9, Chapter 11, or Chapter 12 of the Bankruptcy Code. Copies of this Cover Sheet must be attached to each copy of the amended creditor/schedule information.

(Rev. 8/27/01: Previous Versions are Obsolete)

COMMON PROCEDURAL PROBLEMS IN BANKRUPTCY

1. Matrix not in proper form. See attached memo.
2. Caption - Do not file corporation and individual together as one filing.
3. Incomplete schedules. Addresses, zip codes and signatures are frequently missing.
4. Motions combined. Attorneys are seeking 2 or more types of relief on one motion.
5. No covers - these are required by the Local Rules.
6. Order affixed to the motion. Orders must be submitted SEPARATELY after the motion is heard and a ruling is made. However, when filing a §362(d) default motion, an order should be submitted at the time of filing.
7. Motions must be filed with the Court one week before the return date.
8. Motions may be adjourned over the telephone, but the attorney must have the consent of ALL parties served. Written confirmation of the adjournment must follow.
9. Petition page should ALWAYS be on top.
10. The matrix, notice to individual consumer debtors and cover sheet can be filed apart from the petition packet.
11. Only ONE copy of the matrix and cover sheet are necessary.
12. If the matrix is not filed at the time of filing the petition, it becomes due within two days not fifteen.
13. Attorney's signature should appear twice on petition page. Very often Exhibit B is not signed.
14. Checks should be made payable to Clerk, U.S. Bankruptcy Court.
(NO ABBREVIATIONS SUCH AS U.S. BK CT.)
15. Please make certain that all schedules are in sequential and alphabetical order.
16. Required number of copies of petitions:
 - Chp. 7 & 13 - Original and 3 copies
 - Chp. 12 - Original and 4 copies
 - Chp. 11 - Original and 5 copies

17. Affidavits of service must be filed prior to the signing of an order.
18. On consent orders (abandonment, relief from stay, etc.) all parties must sign.
19. All orders must be accompanied by two copies.
20. All Chapter 13 claims should be filed with the Clerk's Office in duplicate.
21. Prefiled testimony is required of all expert witnesses, and is to be filed three days prior to the commencement of a trial.